UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

```
------------------------------------
SCANSOFT, INCORPORATED,        :    Civil Action
                   Plaintiff   :    No. 04-10353-PBS
                               :
        V.                     :    Courtroom No. 19
                               :    1 Courthouse Way
VOICE SIGNAL TECHNOLOGIES, INC.:    Boston, MA 02210-3002
ET AL,           Defendant   :    2:30 p.m., Monday
------------------------------------    July 18, 2005
```

Status Conference

Before: THE HONORABLE PATTI B. SARIS,
             UNITED STATES DISTRICT JUDGE

APPEARANCES:

Bromberg & Sunstein, LLP,
   (by Lee Carl Bromberg, Esq. and Lisa M. Fleming, Esq.
   and Erik Paul Belt, Esq.)
   125 Summer Street, Boston, MA 02110-1618,
   on behalf of the Plaintiff.

Choate, Hall & Stewart,
   (by Robert S. Frank, Jr., Esq. and Sarah C.
   Columbia, Esq.),
   53 State Street, Exchange Place, Boston, MA 02109,
   on behalf of the Defendant.

                  Marie L. Cloonan
               Official Court Reporter
           1 Courthouse Way - Suite 5209
        Boston, MA 02210-3002 - (617)439-7086
        Mechanical Steno - Transcript by Computer

FORM CSR - LASER   REPORTERS PAPER & MFG. CO.   800-626-6313

2

1   THE CLERK: The case of ScanSoft, Incorporated v.

2   Voice Signal Technologies, Et Al, Civil Action No. 04-10353,

3   will now be heard before this Court.

4   Will counsel please identify themselves for the

5   record.

6   MR. BROMBERG: Lee Bromberg, Bromberg & Sunstein,

7   for the plaintiff, ScanSoft, your Honor.

8   MR. BELT: Erik Belt, also Bromberg & Sunstein.

9   MS. FLEMING: Lisa Fleming, Bromberg & Sunstein,

10   for the plaintiff.

11   MR. FRANK: Robert Frank and Sarah Columbia,

12   Choate, Hall & Stewart, for the defendants.

13   THE COURT: Let me just say, I received today --

14   more accurately -- read today the affidavit suggesting

15   various experts for Voice Signal and expressing concern

16   about ScanSoft's experts because of -- most from MIT and

17   some of the research was funded through ScanSoft.

18   I was wondering if you had a response to any of his

19   proposed independent experts, whether there were any laws or

20   any conflicts, that you noticed.

21   MR. BROMBERG: Well, your Honor, we just got Mr.

22   Frank's affidavit also at about 1:15. So, I had a chance to

23   look at it quickly.

24   And, I think that the reason we selected the people

25   from MIT, MIT is a world-renowned research institute, it's

9

1   THE COURT: I didn't see that.

2   MR. BROMBERG: -- just a couple of hours ago.

3   THE COURT: All right.

4   MR. BROMBERG: And, So, we invited the Court to

5   take a look at that and see if that works.

6   We modeled it on what we could find in the

7   literature, including an order from Judge Kollar-Kotelly,

8   who had the case against Microsoft in the DC Circuit. And,

9   I think that that seemed to provide a workable way to do

10 this.

11   MR. FRANK: Your Honor, I invite you to compare

12 Judge Kollar-Kotelly's order to their motion. And, you will

13 find only the palest in resemblance.

14   If I may. First, we have to select a person,

15 that's clear, and we will approach Mr. Woodland jointly. In

16 fact, perhaps we could send him an e-mail in advance just to

17 warn him that we're going to call him, and then do something

18 appropriate.

19   The question then, I think, is: How does the

20 expert know what to look for?

21   We believe that both sides should put to the expert

22 and to the other side the questions they would like the

23 expert to focus on. Are you finding X in the source code?

24 Are you finding Y in the source code?

25   And, we want that for two reasons. One is, I

1   think, that if we just drop down on an expert two sets of

2   source code and ask him to wade through that, that will be

3   beneficial to the defendant, but it will simply lead to

4   another round of proceedings.

5   The second thing is, we believe that if they will

6   say what it is that they are looking for, that we should

7   have an opportunity to demonstrate to the expert, and

8   ultimately to you, that whatever it is, it is public domain

9   material.

10   THE COURT: Well, let me say this. It's the same

11   complaint he essentially has, which is understandable. You

12   don't want this expert, particularly one who may not fully

13   understand American law, to determine it. He's not a

14   mediator or a fact finder or a master. I hear both of you.

15   He's essentially -- that's why I thought last time we agreed

16   he would essentially serve as an independent expert to me --

17   MR. FRANK: Right.

18   THE COURT: -- so that I could make decisions.

19   And, I think that's fair. You can make an argument and you

20   can make an argument. And, I may end up disclosing to your

21   experts whatever was said with a protective order not to

22   disclose it to the inside people on both sides. Because,

23   don't forget, this expert is going to help me with your

24   claims, too. So, it goes both ways.

25   I think it's -- you've got to put to him what the

20

1   THE COURT: If you heard judges comment during --

2   it's very funny, our view on means plus function, how much

3   we love those kind of things.

4   (Laughter.)

5   THE COURT: Have a nice vacation for those who are

6   going there. And, I hope not to see you again. Just try to

7   get someone who can talk to me in a way that I'll

8   understand, so I'll recognize his speech.

9   (Whereupon the hearing was concluded.)

10

11

12   CERTIFICATE

13

14   I, Marie L. Cloonan, Official Reporter of the

15   United States District Court, do hereby certify that

16   the foregoing transcript, from Page 1 to Page 20,

17   constitutes to the best of my skill and ability a true

18   and accurate transcription of my stenotype notes taken

19   in the matter of Civil Action No. 04-10353-PBS,

20   ScanSoft, Inc. v. Voice Signal Technologies, Inc.,

21   et al.

22

23   _Marie L. Cloonan_____

24

25

FORM CSR - LASER REPORTERS PAPER & MFG. CO. 800-626-6313